

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

X ONE, INC.,  
Plaintiff,

v.

UBER TECHNOLOGIES, INC.,  
Defendant.

Case No. 16-cv-06050-LHK (SVK)

**ORDER GRANTING IN PART AND  
DENYING IN PART DEFENDANT'S  
MOTION TO COMPEL A  
SUPPLEMENTAL RESPONSE TO  
INTERROGATORY NO. 7**

Re: Dkt. No. 133

In this action, Plaintiff X One, Inc. ("X One") asserts that Defendant Uber Technologies, Inc. ("Uber") infringes U.S. Patent No. 8,798,593 ("the '593 Patent") and U.S. Patent No. 8,798,647 ("the '647 Patent"). In particular, X One alleges that Uber's app and Uber's ride-sharing, car-pooling and delivery services infringe the '593 and '647 Patents. *See* ECF 1.

This order addresses the first of two joint discovery letters filed by Uber on May 10, 2019. ECF 133. In this letter, Uber moves to compel X One to supplement its response to Uber's Interrogatory No. 7. *Id.* Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for disposition without oral argument. The Court **GRANTS IN PART** and **DENIES IN PART** Uber's motion to compel.

**I. UBER'S INTERROGATORY NO. 7**

In general, Uber's Interrogatory No. 7 asks X One to identify and describe "all efforts to license, enforce, capitalize on, sell, or otherwise exploit the Patents-in-Suit and Related Patents." ECF 133 at 3. Uber contends that X One failed to fully respond to this interrogatory by not providing a narrative description of "all efforts" that it employed to license, sell or exploit the '593 and '647 Patents. *Id.* at 2. In particular, Uber alleges that its own investigation uncovered

evidence that X One offered to sell the '593 and '647 Patents on an intellectual property marketplace run by Allied Security Trust ("AST"). *Id.* X One did not include these efforts in its response to Interrogatory No. 7. *Id.* As a result, Uber requests an order: (1) requiring X One to provide a full and complete narrative response to Interrogatory No. 7, (2) requiring X One to verify its response to Interrogatory No. 7 under oath and (3) if X One fails to supplement its response, precluding X One from offering any evidence or argument regarding the listing of the '593 and '647 Patents on AST at any future proceeding. *Id.*

In response, X One asserts that it has provided a complete response to Interrogatory No. 7. *Id.* at 3. X One also states, in the discovery letter, that it "has investigated and confirmed that it has no memory or record of an offer to sell its patents 'on AST,' through 'PulseIP' or otherwise." *Id.* at 4. X One further notes that Uber may ask questions regarding AST or PulseIP at the upcoming depositions of X One's two principals. *Id.* X One also offers to provide verifications before the close of fact discovery for all the interrogatory responses that it can verify. *Id.*

## II. DISCUSSION

Although Uber requests a "narrative" response to its Interrogatory No. 7, with one exception, Uber fails to identify what specific information or type of information X One's current response fails to provide. That exception is X One's failure to identify efforts to sell the '593 and '647 Patents through an intellectual property marketplace run by AST. ECF 133 at 2. The Parties did not submit to the Court copies of Interrogatory No. 7 or X One's response, but the Parties' joint letter suggests that X One's response to Uber's Interrogatory No. 7 does not contain the express statement X One now provides that it "has investigated and confirmed that it has no memory or record of an offer to sell its patents 'on AST,' through 'PulseIP' or otherwise." *Id.* at 4. If X One's response does not include this language, X One must provide a supplemental response to include that denial as it is set forth in the joint discovery letter. X One shall supplement its response to Uber's Interrogatory No. 7, with a verified response, by **May 21, 2019**.

Uber's request for enforcement of Rule 26(e) via Rule 37(c) is premature, in part because both Parties indicate that X One's efforts to monetize the '593 and '647 Patents will be explored in deposition. *Id.* at 3–4. If or when Uber's request becomes ripe, Uber may seek relief through the

1 appropriate motion to the trial court.

2 **III. CONCLUSION**

3 In sum, the Court **ORDERS** that by **May 21, 2019**, X One shall serve a verified,  
4 supplemental response to Uber's Interrogatory No. 7, which includes the statement that "X One  
5 has investigated, and confirmed that it has no memory or record of an offer to sell its patents 'on  
6 AST,' through 'PulseIP' or otherwise."

7 **SO ORDERED.**

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9 Dated: May 15, 2019

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12 SUSAN VAN KEULEN  
13 United States Magistrate Judge  
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